(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. NO. 192 /2005 Division Bench

APPELLANTS:
(Original Applicant)

1. Smt. Roopa Rama Sharma
Aged about 38 Years,
W/O Santoshdhar Sharma
R/O Ratanpur, Teh-Kota
Distt. Bilaspur(C.G.)

2. Santoshdhar Sharma
Aged about 42 Years,
S/O Gulabdhar Sharma
R/O Ratanpur, Teh-Kota
Distt. Bilaspur(C.G.)

Amended B 24/8/06

P.R. No. 321/05 Presented dated 07.02.05

VERSUS

RESPONDENTS:
(Original Non-applicants)

All OS 24/8/06

[1] Sanjay Gahlot
Aged about 30 Years
S/O Shobhalal Gahlot
R/O 27-Kholi, Vikashnagar,
Civil Lines,
P.S.- Bilaspur(C.G.)
Registerd owner
jeep no.C.G.-10/ZD-0668

[2] Salim Beg
S/O Sattar Beg
R/OKarriyaPara,Ratanpur
Teh-Kota,Distt. Bilaspur(C.G.)
Driver jeep no. C.G. –10/ZD-0668

[3] The New India Insurance Company Ltd.
Branch office
Bilaspur (C.G.)
Insurance Company
jeep no. C.G.-10/ZD-0668

Amount Claimed in Tribunal : Rs. 18,01,400/-with 15% interest
Amount awarded by tribunal : Rs 1,64,000/- with 6% interest
Amount claimed in appeal : Rs.16,37,400/- with 15% interest
Court Fess paid : Rs 15/-

APPEAL UNDER SECTION 173 OF MOTOR VEHICLE ACT 1988

Being aggrieved by the award dated 10
Learned Addl

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL NO. 192 OF 2005

APPELLANTS Smt Roopa Sharma & Another

Versus

RESPONDENTS Sanjay Gahlot & Others

Present : Shri Sameer Singh, counsel for the appellants.
None for the respondents.

ORAL ORDER
(Passed on 14th February, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 (henceforth "the Act, 1988") against the award dated 18-10-2004 passed by Additional Motor Accident Claims Tribunal, Bilaspur (henceforth "the Tribunal") in Claim case No.38 of 2004, for enhancement of compensation.

(2) The factual matrix of the case, in brief, is that on 28-11-2003 when Satish @ Gopal Sharma (since deceased) was coming from Ratanpur to Bilaspur by boarding in a jeep bearing registration No.CG-10-ZD-0668 (henceforth "the offending vehicle"), due to rash and negligent driving of its driver fell down from the vehicle, resultantly sustained injuries and succumbed to those. Appellants herein who are the mother and father of the deceased have filed an application under Section 166 of the Act, 1988 for grant of compensation against the respondents who are owner, driver and insurer of the offending vehicle. Respondents opposed the claim.

(3) Learned Tribunal after appreciating the evidence adduced by the appellants, vide impugned award allowed the compensation of Rs.1,64,000/- (Rs.1,60,000/- towards loss of income and Rs.2,000/- to each of the appellant towards love and affection).

(4) Learned counsel for the appellants urged that the Tribunal erred in assessing the income of the deceased; further contended that amount awarded towards love and affection is on lower side.

(5) Admittedly, deceased was aged 18 years who was prosecuting his studies and was student of class 9th. No legal evidence to prove his income has been adduced by the appellants. From evidence it was clear that deceased was attending classes from 12.00 noon to 4.30 p.m. and thereafter devoting his time in study at home. In view of this, it can be inferred that he was not an earning member. Learned Tribunal for assessing loss of income, took the notional income in accordance with Schedule 2 of Section 163A of the Act, 1988 and after adjusting 1/3rd towards his own expenditure, applying multiplier of 16, recorded a finding and accordingly allowed compensation of Rs.1,60,000/- towards dependency. For love and affection an amount of Rs.2,000/- to each of the appellant has been awarded. The finding of facts recorded by the Tribunal does not appear to be perverse or illegal.

(6) We are of the considered view that the award passed by the Tribunal is just and reasonable and it does not call for any interference by this Court. In the result, the appeal being devoid of substance deserves to be dismissed and is accordingly dismissed *in limine*. No costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

Gowri